CITY OF GLOUCESTER CONSERVATION COMMISSION MINUTES WEDNESDAY, November 17, 2010 - 7:00 PM

CITY HALL, KYROUZ AUDITORIUM ROBERT GULLA, CHAIRMAN

Members Present:

Robert Gulla, Chair

John Feener

Charles Anderson Barry Gradwohl Steve Phillips Arthur Socolow

Ann Jo Jackson, Co Chair

Staff:

Lisa Press, Agent

Pauline Doody, Recording Clerk

Items may be heard 15 minutes before their scheduled time.

1-5 minutes maximum, review of amended, updated or final information, status reviews, modifications, signing decisions etc.

None

II. PUBLIC COMMENT - None

III MINUTES REVIEW

Motion: To approve the meeting minutes for 7/21/10, 8/18/10, 9/1/10, 9/15/10, &

10/6/10

1st: Steve Phillips 2nd: Barry Gradwohl Vote: Approved 7-0

IV PUBLIC HEARING approximately 7:15 PM

A. Continuation-28-2102- 101R Riverview Road, Notice of Intent submitted by David de Sieyes, to re-point and or resurface existing seawalls and to increase height of walls in riverfront resource area. (Map 93 lot 7).

To be continued to December 15

Motion: To continue 28-2102- 101R Riverview Road, Notice of Intent submitted by David de Sieyes, to re-point and or resurface existing seawalls and to increase height of walls in riverfront resource area. (Map 93 lot 7) to December 15.

1st: Barry Gradwohl 2nd: Steve Phillips

Vote: All approved 7-0

B. New- 28 Eastern Point Blvd. Request for Determination submitted by Robert Gordon, to remove existing septic system and to connect to municipal sewer system. (Map 134, Lot 60).

Presenter: John Judd, Gateway Consultants

Mr. Judd stated that the plan that is submitted is part of a larger plan. He reviewed the plan with the commission. It will be the removal of the existing septic system and take out the concrete retaining wall. We have approval to connect to the city sewer system It is across the street from the harbor. It will be graded, loamed and seeded.

Commission Comments:

Mr. Feener asked if the old septic tank was to be removed and was the grade going to stay the same after the extraction

John Judd: It will returned to the original contour

Mr. Feener stated concern that it may change the pattern of the water flow and requested that erosion controls stay in place until re-vegetation occurs. Also would like the grades to go back to the way it was as well as having a pre construction site visit

Public Comment: None taken Conditions:

- Erosion controls to stay in place until re-vegetation occurs
- Preconstruction site walk

Motion: Negative determination for 28 Eastern Point Blvd submitted by Robert Gordon, to remove existing septic system and to connect to municipal sewer system. (Map 134, Lot 60).

1st: Barry Gradwohl 2nd: Charles Anderson Vote: All approved 7-0

B. New- 88 Concord Street, Request for Determination submitted by Dana Robinson, to remove and replace existing septic system. (Map 234, Lot 10).

Presenter: John Judd, Gateway Consultants

Mr. Judd reviewed the plan with the commission and stated that the proposed septic system has been approved by the Board of Health. The buffer zone to an offsite wetland is behind Annie's Variety. There is a wood fence that surrounds property and there is a street that separates the wetland and the leeching facility. It will flow upgrade toward the wetland. The grade is higher than the lot itself.

Commission Comments:

Ms. Press stated that the fence is not completely touching the ground and would like to see a straw waddle in place.

Public Comment: None

Conditions:

Straw waddle to be placed by fencing

Motion: Negative Determination for 88 Concord Street, submitted by Dana Robinson, to remove and replace existing septic system. (Map 234, Lot 10).

1st: Steve Phillips 2nd: Ann Jo Jackson Vote: All approved 7-0 **D. New – 99A Essex Avenue,** Notice of Intent submitted by Allan Hill, for after the fact removal of 42 cubic yards of soil in a riverfront resource area. (Map 218 lot 126). **LP request to remove above ground diesel storage tank.**

Presenter: John Judd, Gateway Consultants Attorney Michael Fahety

Mr. Fahety stated that a letter was sent to the commission on October 5 to describe the actions that had been taken. During the course of the investigation, certain environmental tests have been conducted. There is one location on the site exceed limits for hydrocarbon.

The scope of the project was so minor that the chapter 21E allows for a limited removal process. It allows it to without pre filing with DEP to remove 100 cubic yard of material provided that a batching plan is shown.

The original site investigation was done on April 26 DeRosa Associates. On July 27, 2010 42 cubic yards was removed from that site. The process has a time limit which expires on August 1st. It requires to do further testing around the perimeter constantly. Further testing shows there are still small diesel oils as well as lead in the top soil. We want to add a rubber track bobcat with a drill probe and take another 15 core samples. Those soil samples will be analyzed. This will be done along the easterly ledge. We are seeking to amend this permit to perform testing and report back to you. To why this is after the fact filing;

Mr. Faherty stated that approximately 10-15 feet of this area is with in the 200 buffer zone and at the time, I did not think it was. The mistake was my fault. I accept responsibility of the mistake and have made the after the fact filings fees It is a one day soil sampling and all the work will be confined within the depression.

Commission Comments:

Mr. Gulla stated that it was understood that there was a miscalculation. Mr. Gulla asked Mr. Faherty what made the applicant want to remove the soil, where did it go and who triggered it?

Mr. Faherty stated that documentation regarding those questions was handed in to the commission previously. Mr DeRosa triggered the work.

Mr. Gulla stated that the information will be reviewed.

Mr. Faherty stated that he and his client decided that it needed to be done.

Mr. Gulla clarified to the board and public that there had been a typo that suggested that 6 cubic yards was removed from the ocean. This has been corrected.

Public Comment:

Susan Taromina 115 Essex Ave, Gloucester, MA

Ms. Taromina stated that in regards to the water that had collected on the site; there had been a drain and pump however, it is not there any more. It makes me question the whole integrity of what is going on there

Mr. Faherty stated that he had no knowledge of a drain and pump and would love to see the pictures. The owner has taken no action on this property.

Ms. Press stated that she had received multiple calls regarding pumping, but did not witness it herself.

Mr. Feener stated that until recently, Mr. Faherty thought it was inside the 200 foot buffer. We had approved the new lines in July. Ms. Taormina asked when the pumping was done during the storm in December; it might have been done outside the buffer at that time before we changed the lines. Mr. Feener wanted to clarify this point. It would be a shame to have a judgment on something that was not wrong.

Attorney Fahety stated that he was familiar with this site. The plan that was approved doesn't show riverfront, what it shows is 200 feet of coastal bank.

What I was aware, that the salt marsh is still above mean high tide.

The new survey work that was done and approved shows that line is at a slightly different angle and it cuts off at that point. Mr. Fahety did not want to insinuate at all that the line had changed

Ms. Press stated that this does not have to be amended if it is still open.

Motion: To continue 99A Essex Avenue, Notice of Intent submitted by Allan Hill, for after the fact removal of 42 cubic yards of soil in a riverfront resource area. (Map 218 lot 126) to December 1st, 2010.

1st: Barry Gradwohl 2nd: Charles Anderson Vote: All approved 7-0

V. PUBLIC HEARINGS approximately 8:15 PM

A. Continuation-28-2096- 134 & 136 Hesperus Avenue, Notice of Intent submitted by John Ferraro, to conduct site improvements for a new subdivision including; drainage, utilities, and roadway in buffer to an inland resource area. (Map 190 lots 41 & 61). Applicant requests continuation to December 1, 2010.

Motion: To continue 28-2096- 134 & 136 Hesperus Avenue, Notice of Intent submitted by John Ferraro, to conduct site improvements for a new subdivision including; drainage, utilities, and roadway in buffer to an inland resource area. (Map 190 lots 41 & 61) to December 1st, 2010.

1st: Arthur Socolow 2nd: Charles Anderson

Vote: All approved 6-0-1 Barry Gradwohl abstaining

B. Continuation- 28-2101-31 Stanwood Ave. Notices of Intent submitted by Gary Litchfield, Litchfield Company, to construct 3 duplex dwellings, driveways, utilities, grading and landscaping in a riverfront resource area. (Map 230 lot 51).

C. 28-2100 33 Stanwood Ave

D. 28-2099 35 Stanwood Ave

Mr. Gulla explained to the public that the commissions goal this evening was to award a contract to a third party reviewer for the above project(s).

Ms. Press stated that bids were set out to seven firms and received five back. She took the three lowest bidders and further investigated their expertise on the issues presented for this project. Haley & Ward, Strong Civil Engineering and John Crow Associates were the three lowest bidders. John Crow Associates expertise was found to be the best suited. Ms. Press stated she had spoken with both Gregg Cademartori and Dave

Sargent and they both concurred that John Crow Associates would be the best suited for the job

Commission Comments:

Mr. Gulla asked Ms. Press if Dave Sargent could get a preliminary list together regarding any environmental concerns and get them to the commission.

Public Comment:

Julie Kenyon, 29 Stanwood Avenue, Gloucester, MA.

Ms. Kenyon respectively requests the commission to visit this property to understand the serious impact this type of project will do to the area.

Ms. Press stated to Ms. Kenyon that this is why the commission is hiring a third party reviewer.

James Liegakos, 32 Winthrop, Gloucester, MA.

Mr. Liegakos stated that he was a Clammer and would hate to lose a resource for 3 duplexes. He stated that he had spoken to Dave Sargent saying he hoped the area would be saved. Mr. Liegakos stated that he enjoys going out there and hopefully it will be saved.

Mr: Gulla asked Ms Press to please contact Dave Sargent and for him to get a list of his concerns to the third party reviewer.

Katherine Heinze, 36 Stanwood Avenue, Gloucester, MA.

Ms. Heinze stated her concern over the project. Ms. Heinze read a letter she received from other concerned citizens to the commission. Ms. Heinze asked if the commission had a fund to be able to save this land. She stated that she and neighbors all live in the marsh. It is a hatching place for horseshoe crabs. It's food for the migratory birds. The whole place is environmentally fragile.

Ms. Heinze asked if John Crow Associates had done any work for the campground. Mr. Gulla stated that the commission does not have that type of fund and will make sure that John Crow Associated has no conflict of interest.

Christine Rass, Woodward Ave, Gloucester, MA.

Ms. Rass encouraged the commission to include coastal zone management and bio maps that has mapped all the resources of the state and have identified all critical area.

Mr. Gulla stated that intensitive use is something the third party reviewer should look at. There was a decision in Sudbury, were there was a lot subdivided into two lots. Only one was approved and it was upheld. The intensity of use to develop both lots did enough damage that the courts felt the commission was within there rights to not allow the development of the second site. It was in the MACC. In the end we do not have to look at them as one lot. It is 3 projects, they are co-owed and technically one can be applied to the other.

Motion: To approve retaining John Crow Associates as a third party reviewer for the project 31, 33, 35 Stanwood Ave, Gloucester, MA.

1st: Ann Jo Jackson 2nd: Charles Anderson Vote: All approved 6-1-0 with Arthur Socolow abstaining

Motion: To continue the project at 31, 33, 35 Stanwood Ave. Notices of Intent submitted by Gary Litchfield, Litchfield Company, to construct 3 duplex dwellings, driveways, utilities, grading and landscaping in a riverfront resource area (Map 230 lot 51) to December 15.

1st: Steve Phillips 2nd Barry Gradwohl Vote: Approved 7-0

VI. PUBLIC HEARINGS approximately 9:15 PM

A. Continuation- 28-2034- 99A Essex Ave- Notice of Intent submitted by David Hill, Gloucester Hotel LLC, to construct a 15,940,00 sq. ft. commercial building, a 1,710 sq. ft canopy with associated excavation, foundation and utilities and parking area in riverfront and coastal bank resource area. (Map 216 lots 1, 17 &126)

Steve Phillips & John Feener recused themselves.

Ms. Press stated to the commission and public that the project's storm water and landscaping has been redesigned. She explained to the public that the commission is re following a continuous quorum for this meeting. There have been four commissioners from the start. William Jones from John Crow & Associates has reviewed the new plans, has presented his concerns with the applicant and the applicant has responded.

Mr. Gulla invited Mr. Jones to give the commission a brief overview of the project up to this point to the commission.

Presenter: William Jones, John Crow & Associates

Mr. Jones stated everything has been reviewed and submitted back in September. We are down to 42 issues from the plan.

They submitted a revised set of plans for storm water and calculations. They have addressed all the issues that were raised. There is one issue left. We asked them to change some of the swales. We wanted to see what the water elevations were throughout the system. Our concern is on the southwest side of the hotel and they need to do some redesign of the storm water system. It is only in the 100 year storm. Mr. Jones did prepare, at Ms. Press's request a draft order of conditions. One of those conditions is that at least 30 day prior to work being done they have to come back to the commission for approval, pay for John Crowe Assocaites to review those calculations and to make sure it is okay. At the last meeting, the commission asked about land subject to coastal storm

Mr. Jones gave example of the data to the commission. He explained the FEMA elevation and they have determined what they are now. He stated that the flood level has not gone down and there is consistency between the 2 FEMA maps. There is land that is bellow 9 feet as it stands today. Under flood conditions there will be a portion of the property under water. The elevation for the hotel is 121/2 feet. They raise the building and a good portion of the site. Some of the parking is at 10 –11 feet. There may be some areas that get backed up in about 6 inches of water in parking. The building will be fine and this is in the case of a 100 year flood. Mr. Jones gave the public another example of how the flood levels will impact an area for clarification.

Mr. Gulla stated that if some level of approval is made then the conditions will start to be made at a later date.

Commission Comments:

Mr. Gradwohl had some concerns and requested clarification from Mr. Jones. He stated that on page 5 item 12 on Mr. Jones document from October 27 regarding contaminated soil. He read to the commission. He stated that it should be addressed in detail.

Mr. Gulla stated that he believed that this issue was addressed in an earlier filing. **Mr. Jones** stated that this is based on the sense from the applicant they weren't sure who or when that would be done. Look at conditions and one of the conditions states that prior to any work they will remediate that area and will file with the commission a action outcome.

Mr. Gradwohl stated that item 13 on same page regarding Mosquito control and questioned page 11 items 42 & 43 regarding the existing fuel oil piping for possible residues. That is a future contaminant. A note needs to put on the drawing. Also snow removal needs to be clarified.

Mr. Jones stated it was addressed as far as the tank but not the piping. The snow will go offsite. The snow is stored in a designated snow area and if they exceed the limit, they would be in violation.

Mr. Gulla asked Mr. Jones if in his opinion did the project has met all the requirements **Mr. Jones** stated yes, the project has met all the requirements.

Public Comment:

Susan Taormina, 115 Essex Avenue

Ms. Taormina stated her concern about sewer or water backup that could happen to her house. She stated that it has recently happened to me. I have spoken with others who have had similar issues as mine. Ms. Taromina read from a letter with comments of others involved. I have a history of problems and thousands of dollars worth of damage in my home. It has been advised that the Hampton Inn to own up to some of these things.

Mr. Gulla was familiar with Ms. Taormina's plight. He stated that an issue as that is a concern of the DPW not the Conservation Commission.

Mr. Gulla asked Mr. Jones if the commission should be concerned with potential sewage backups in the area.

Mr. Jones stated that typically the water sewer sufficiency and maintenance issues are the prevue of the DPW. They have to sign off on the building permit. There is no environmental damage to talk about yet.

Diane Sperry 133A Essex Ave

Ms. Sperry stated that some issues may have been misrepresented. She asked for a copy of Mr. Hills response to Mr. Jones report and all copies of all correspondences regarding the project. She asked for the opportunity to review all documentation before any decisions were made.

Jill McGlashan, 64 Bond St, Gloucester, MA.

Ms. McGlashan stated her concerns regarding the storm water management revisions. She read a letter to the commission with details of her concern. (The letter is available

for review at the Community Development Office at 3 Pond Rd.). She stated that the bio system proposed will be inadequate and hazardous for this site.

Mr. Gulla questioned Mr. Jones regarding her concerns.

Mr. Jones stated that they did not use the redevelopment standard from the storm water handbook. There are two different standards.

There is a redevelopment standard for riverfront and a redevelopment standard for storm water. Mr. Jones explained the difference to the commission. The applicant is using it as pre-treatment. They have lined the swales on our request and are only being used for pretreatment. It is allowed by the handbook for pretreatment.

Sam Frontireo 11 Stewart Rd

Mr. Frontiero stated his concerns starting with the issue that debris from construction will be carried off into the marsh and water during this time of year. He also displayed pictures of 10 foot high tides and his concerns regarding them for himself and the property. He stated that filling in the gully will cause major problem. The surrounding houses will flood and the gully might help save these houses. He stated that this project is a disaster. Showed pictures of the area during the storm of '86

Kathleen Doanne 3 Stuart Road

Ms Doanne stated that big storms are becoming more frequent and has started to change the landscape. She stated that it does not make sense to build the hotel on this site where there is potential for flooding. The cars oils will cause damage to the area. The hotel might be built up but the cars will still be there.

Mr. Gulla stated to the public that there is some misunderstanding to what will be there to what is there now. The building is in compliance with the standards that have been set. For the most part if the performance standards are met and it is a good project for the environment. It will be raised to accommodate for the flood zones.

Ms. Press stated that FEMA determines the 100 year storms and we are bound by that data.

Ms. Doanne asked what would happen when we get a large storm and pollution gets into the water.

Ms. Press stated that the commission issues an enforcement order to the party responsible which would be the hotel.

Mr. Jones explained the new contouring of the lot to the commission and public.

Mr. Gulla asked Mr. Jones if he was comfortable with the idea in case of a storm. Is there any situation that could occur that there would be a barrier and a vehicle couldn't get out.

Mr. Jones stated that the depression is only about 6". It is not tremendously deep. He stated his comfort with it. They have some pipe increase to do and if they bring it down as requested I will be satisfied.

Allen McGlashan, 64 Bond St, Gloucester, MA.

Mr. McGlashan asked if the drainage would go onto Essex Ave and was concerned about flooding down the street.

Mr. Jones stated it would not. He reviewed the drainage plan and how it would be installed.

Mike Favaloro, 11 Essex Ave, Gloucester, MA.

Mr. Favaloro stated that he hopes we are all thinking that Mother Nature doesn't care and it will flood. It is just recovering from illegal fill from many years ago and we are now going to stress it again.

Jill McGlashan, 64 Bond St, Gloucester, Ma.

Ms. McGlashan questioned the soil testing that had been done. She stated that it is soil type c and that is not recommended for bio type swales. She asked for clarification. Mr. Jones stated that it would true if it was being used for treatment. They are using it for pre treatment. Mr. Jones explained how the treatment process worked to the commission and public and also reviewed how the bio filter systems worked. He stated that there was a difference between bio swales and bio retention swales.

Sandra Favaloro

Ms. Favaloro asked "What happens if something fails?"

Mr. Gulla stated that the commission relies on engineers for this information. The applicant is responsible or the owner.

Ms. Favaloro asked if they legally have to have a backup plan.

Mr. Gulla stated that it is usually built into the plans.

Ms. Jackson stated that there is an operation and maintenance plan that is in place.

Mr. Gulla stated that liability concerns do not rest with this commission.

Susan Taromina, 115 Essex Ave, Gloucester

Ms. Taromina asked the commission "Does it make sense to build something like this land?"

Sam Frontiero, 11 Stuart Rd, Gloucester

Mr. Frontiero asked if fill would be put on the North part of that property. He stated it was said that fill could be not be done to that part of the site.

Mr. Gulla stated that it may have been before the distinction if it was a redevelopment site

Ms. Press stated to public to put in a request for any documentation for review and most can be emailed to you.

Mr. Gulla explained the appeal process to the public. He then asked the commission if they felt there had been enough information presented for a vote.

Ms. Jackson stated she recognizes that we have all have had time to review the documents and the public has had the same time.

Ms. Press state that if we close tonight we have 21 days for the conditions and the issuance is approximately 30-40 day out

Motion: To accept the project- 99A Essex Ave- submitted by David Hill, Gloucester Hotel LLC, to construct a 15,940,00 sq. ft. commercial building, a 1,710 sq. ft canopy with associated excavation, foundation and utilities and parking area in riverfront and coastal bank resource area. (Map 216 lots 1, 17 &126 1st: Ann Jo Jackson

2nd: Charles Anderson

Vote: All approved 4-0-1 with Arthur Socolow abstaining

VII. AS TIME PERMITS: COMMISSION BUSINESS

A. Requests for Letter Permits/Modifications 28-2086 26 Thurston Point Rd

Ms. Press stated that there was a shed and it is being moved over 20 feet. It is a minor modification. It has the same impact.

Mr. Feener stated that he would like a signature of the change on the plan.

Motion: To approve the minor modification for 26 Thurston Point Rd

1st: Ann Jo Jackson 2nd: Steve Phillips Vote: All approved 7-0

VII. AGENT'S REPORT ON VIOLATIONS

B. Requests for Certificates of Compliance

28-1628 179 Hesperus Ave

28-1567 21 Fernwood

28-1794 57 Wingaersheek Rd

28-1856 23 Harbor Loop

28-2055 23 Harbor Loop

Motion: To approve requests for Certificates of Compliance

1st: Arthur Socolow 2nd: Charles Anderson Vote: All approved 7-0

Letter permit:

Attorney Mike Fahety stated that there is 10 thousand gallon diesel tank at 79 Essex Ave. It is on a concrete pad and bolted. It will be unbolted and hoisted by crane and removed.

Ms. Press stated that there is no excavation involved

Motion: To approve the removal of a 10 Thousand gallon diesel tank at 79 Essex Ave.

1st: Barry Gradwohl 2nd: Ann Jo Jackson Vote: All approved 5-0

Mr. Gulla opened a conversation with the commission regarding Requests for Determinations. Mr. Gulla stated we need to adjust how we condition RDA'a We over condition them and Mr. Phillips has stated that you have no standing to condition them if it went to a court situation. If we give a negative determination, there is only a couple of lines on the form for conditions. Moving forward, if this commission has a problem with a project, the vote should be a positive determination. We need to condition less and put them before this commission more as an NOI. The standard boiler plate conditions need to be reduced or removed and the amount of conditions needs be reduced and then vote yes and give it a positive determination. There cannot be so many conditions on the RDA's anymore.

Ms. Press stated that when she sees a project as borderline, she encourage the applicant to put as much mitigation on the plan so the commission doesn't have to condition so much.

Mr. Feener stated that every community has different laws and asked if its been suggested that the boiler plate conditions be eradicated.

Mr. Gulla stated that no rules are being broken; we are just trying to clean it up.

Mr. Feener stated that local ordinances should be plugged into the standards.

Mr. Gulla stated we would have to rewrite the ordinances and get it approved by city council.

Motion: To amend the form used by the Agent to report determination on RDA's by deleting all standard or boiler plate conditions from the form.

Ms. Press stated that a determination needs a preconstruction site visit. She stated she would like to leave in that condition

Ms. Jackson stated to delete that from the standard conditions and the commission can add it in as needed.

1^{st:} Steve Phillips 2nd Ann Jo Jackson Vote: All approved 7-0

C. Requests for Extension Permits

None

If you would like additional information regarding the review status of a particular item, please contact the Community Development Conservation Department via e-mail at mdemick@gloucester-ma.gov or via phone at 978-281-9781.

Additional information can also be obtained on the Conservation Web Page at www.gloucester-ma.gov Click Community Development for a link to Conservation.

Commission Members: If you are unable to attend the meeting, please contact the Community Development office at 978-281-9781 or send Lisa or Marie an e-mail